

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 63 of 1991.

DATE OF DECISION 08-03-1993

Smt. C. Jahu W/o Shri C. Balan Applicant (s)

Mr. P. Sivan P-illai through Advocate for the Applicant (s)
Mr. TCG Swamy

Versus

Union of India rep. by Respondent (s)
General Manager, Southern Railway
and others

Mrs. Preethy Ramakrishnan Advocate for the Respondent (s)
rep. Smt. Dandapani

CORAM :

The Hon'ble Mr. S.P. Mukerji, Vice Chairman

and

The Hon'ble Mr. A.V. Hari dasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? on
3. Whether their Lordships wish to see the fair copy of the Judgement? on
4. To be circulated to all Benches of the Tribunal? on

JUDGEMENT

(Hon'ble Mr. S.P. Mukerji, Vice Chairman)

In this application dated 5.1.91 later amended on 11.2.92 the applicant who had been working as a Serang supervising the work of Moppila Khalasis has claimed a pay higher than the un-revised pay scale of Rs.250-400 later revised to Rs.950-1500. During the pendency of the application the applicant unfortunately died and his widow has been substituted as the applicant. The applicant's case has been that Serangs, are the supervisors of Moppila Khalasis who were in the pay scale of Rs.210-290 (revised 800-1100). According to the applicant, vide the order dated 11.4.85 at Annexure. AI the pay scale of Moppila Khalasis was revised from Rs.210-290 to Rs.260-400 i.e., the pay scale of Serang which the applicant has been getting.

This revised pay scale of Moppila Khalasis was adopted in 1989 in the Southern Railway. According to the applicant he had represented for getting a pay scale higher than ^{that} /of Moppila Khalasis but he has not received any reply to the representation. He has referred to the Counter Affidavit filed by the respondents in O.A.1127/90, a copy of which has been placed at Annexure.AIII. In para 7 of the Counter affidavit it was mentioned that "Sarangs are a category of employees who supervise the works of others such as Moppila Khalasis and other Khalasis and they are in the highly skilled categories and paid the scale of Rs.1200-1300 and not Rs.950--1500 as stated in the rejoinder. They are chosen from among the Moppila Khalasis on the basis of seniority and merit etc."

2. The contention of the learned counsel for the respondents is that the normal pay scale of Moppila Khalasis is Rs.210-290 (800-1100) but a special dispensation was made in respect of those Moppila Khalasis who are working on bridge erection works because of the additional hazards and they were allowed higher pay scale of Rs.260-400. ^(Rs.950-1500) Her contention is that Annexure-A.I relied upon by the applicant is applicable to South-Eastern Railway only. The learned counsel for the respondents also showed us a communication dated 25.9.86 from the Chief Engineer (Construction) at Madras wherein it was laid down that 'Moppila Khalasis in Semiskilled grade may be treated as Skilled and paid the scale of Rs.260-400

only for the period they are engaged in bridge erection work. They should be trade tested before they are granted the Skilled grade."

3. The learned counsel for the applicant has relied upon the judgment of the Bangalore Bench of this Tribunal at Annexure.AII in which the ratio was that a supervisory post cannot carry the pay scale of the post which ^{is} ~~are~~ supervised. Though in that case the supervisory post was that of Permanent ^{we} Way Inspector, /respectfully accept the ratio laid down therein.

4. Having heard the learned counsel for both the parties we feel that since the post of Serang is a supervisory post over the post of Moppila Khalasis and posts of Serangs are filled-up by promotion of Moppila Khalasis, it will be anomalous if the Serangs and Moppila Khalasis are in the same pay scale so long as Moppila Khalasis are supervised by the Serang. We accept the position that Moppila Khalasis are given the higher pay scale of Rs.260-400 (Rs.950-1500) so long as they are working on bridge erection work. If a Serang is also employed in bridge erection work and supervises the work of ^{such} ~~^~~ Moppila Khalasis, there is no reason why he should be paid the same pay scale of Rs.260-400 as that of his subordinates. The learned counsel for the respondents in O.A.1127/90 themselves have stated that in such cases the Serangs are given the pay scale of Rs.1200-1800. The learned counsel

for the respondents indicated that in bridge erection work, the supervisory duties are discharged by the Bridge Inspector, and not by Serang. We are not prepared to accept the logic of this averment because when for the bridge erection work there are three levels ^{namely} of Bridge Inspector, Serang and Moppila Khalasis, it cannot be presumed that the intermediate level of Serang which universally supervises the work of Moppila Khalasis, shall be discharging the normal duties of Moppila Khalasis without supervising them.

5. The learned counsel for the respondents argued that the applicant can make a representation to seek the benefit of higher pay scale of Rs.1200-1800 but considering that the applicant has already expired, it will be too hard on the widow to require ^{her} ~~xxxx~~ to file a representation and wait for a decision.

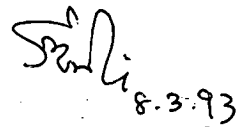
The learned counsel for the respondents' apprehension that accepting this application ^{would} ~~create~~ ^{unmanageable} ~~an~~ precedent cannot be accepted because in the case before us the applicant is no more and we are laying down ^{which} a rationale ~~is~~ ^{is} unexceptionable.

6. In the above light, we allow this application only to the extent of directing the respondents to remunerate the applicant's service as Serang in the pay scale of Rs.1200-1800 ^{during the period of} ~~xxxxxxx~~ three years prior to 5.1.91 when this application was filed ^{and further} ~~xxxx~~ ^{to} restricting ~~to~~ the period when the Moppila Khalasis under the applicant ~~xxxxx~~ ^{were} drawing the pay.

scale of Rs.950-1500 while engaged in bridge erection work. Arrears of pay and allowances calculated on this basis should be paid to the widow of the deceased applicant within a period of three months from the date of communication of a copy of this judgment. We make it clear that in the circumstances of this case, the aforesaid order shall not act as precedent in other cases. There is no order as to costs.



(A.V. Haridasan)
Judicial Member


8.3.93

(S.P. Mukerji)
Vice Chairman

8.3.1993

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